AGENDA FOR 168thMEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 27/01/2020 AT 3.30 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the minutes of the 167th(Adj.) meeting of Town & Country Planning Board held on 23/12/2019.

The minutes of 167th(Adj.) meeting of TCP Board held on 23/12/2019 were circulated to all the members. No comments have been received for the same from members.

The Board may like to confirm the minutes.

Item No. 2: Appeal under Section 52(2)(b) of the Town & Country Planning Act, 1974 filed by M/s Goa Resorts (Hotel Baia do Sol) against North Goa Planning and Development Authority (File No. TP/B/APL/177/2019).

The matter is regarding property bearing Sy. No. 281/1 Calangute village, Bardez Taluka, admeasuring an area about 2000 sq. mtrs. As per the documents/appeal memo submitted, the said property originally belonged to partnership firm Motel Lomir and Mr. Lucio Miranda. The said partnership firm had constructed structures in the said property prior to 1974 and started Hotel business therein. Subsequently, the Village Panchayat issued construction licence dtd. 16/08/1976.

Then in 1978 Mr. DamodarNarcinvaNaik was admitted as a partner of the firm. Then the name of the said establishment was changed to Hotel Baia do Sol. The house tax is being paid from 1976 onwards. The appellant has mentioned that house tax and other taxes are being paid from 01/04/1978. Vide letter dtd. 30/07/1982, the Village Panchayat has issued NOC for the structures in this property under reference consisting of 8 single rooms and 14 double rooms.

Then in the year 2008, the Village Panchayat issued a Show Cause Notice dtd. 04/07/2008 calling upon the appellant to Show Cause as to why these structures in the said property should not be demolished. This was

followed by personal hearing on 27/01/2009. A demolition Order dtd. 27/02/2009 was thereafter issued, against which, in the matter of Appeal No. 97 of 2009 before Dy. Director of Panchayat, vide order dtd. 26/06/2009, the Dy. Director of Panchayat directed the Village Panchayat to withdraw the Demolition Order dtd. 27/02/2009.

The Panchayat thereafter issued another notice dtd. 10/03/2010 and 09/07/2010, followed by notice dtd 07/10/2011 and 21/07/2012 for demolition. Vide Order dtd 17/10/2012, the Director of Panchayat quashed and set aside the said demolition order.

Thereafter the appellant received notice dtd. 08/09/2016 from North Goa PDA, which was replied on 21/09/2016. The appellant was then given personal hearing on 01/06/2018, in which the appellant produced all the required documents. The Show Cause Notice dtd. 08/09/2016, mentions about RPG-2001 and RPG 2021, which is objected by the appellant on the ground that the structures referred are existing since 1976.

Now the appellant is in receipt of Final Notice dtd. 28/12/2018 against which the present appeal is filed.

The appeal was heard in the 165th (Adj.) meeting of the TCP Board held on 10/06/2019 during which, the appellant remained absent and the Board felt it appropriate to hear the Appellant too, so as to arrive to a particular decision.

The Member Secretary was therefore directed to issue the notices to both the parties to remain present for the next meeting of the Board to give their say in the matter and accordingly the same were issued. During the hearing, however the appellant was absent and was therefore decided that the matter shall be taken up again in the next meeting for discussion and decision accordingly.

Member Secretary was therefore once again directed to issue the notices to both the parties to remain present for the next meeting of the Board.

In the 167th meeting of TCP Board held on 08/11/2019, the matter was heard again and the Board decided as under:

"The TCP Board member were of unanimous opinion that the appellant may ask NGPDA a copy of the building plan, on the basis of which, the NGPDA has decided about the illegality of the structure and the same can thereafter be produced before TCP Board in its next meeting in order to take appropriate decision in the matter. The Appellant was also asked to make all such effort to obtain copies of approved plan of existing structure also from Village Panchayat. The same was agreed upon by both the parties and accordingly the matter was deferred".

The matter was heard in the 167th (Adj.) meeting of TCP Board held on 23/12/2019 and the Board decided as under:

"*The Board members however raised their concern stating that replies under RTI, if related to the present matter, will unnecessarily delay further the decision in the matter, suggested that the matter should be decided finally in the next meeting, irrespective of outcome of RTI application filed by the appellant before other concerned authority. The same was agreed upon by the and accordingly it was decided that the matter shall be heard again in the next meeting of the Board and shall be decided finally irrespective of the outcome of RTI application filed by the Appellant.*

Member Secretary was directed to issue notices to both the parties accordingly".

The matter is placed before the Board for deliberation.

Item No. 3: Representation by Dr. Suresh Shetye against Goa University (File No. 36/1/TCP/314/2019).

The matter is regarding oral judgment dated 30/07/2019 by Hon'ble High Court of Bombay at Goa in Writ Petition No. 317 of 2019 filed by Goa University against Town & Country Planning Board and 4 others. Hon'ble High Court has set side Order dated 15/10/2018 and 12/11/2018 and directed the Board to hear the petitioner, i.e. Goa University and Res. No. 3 of the Writ Petition No. 317/2019, i.e. Dr. Suresh Shetye and dispose of the representation made by Res. No. 3 within 3 months from the date of the petitioner university filling response to the representation made by Res. No. 3.

The matter is regarding closure of access to the land bearing Sy. No. 193, 197 and 198 of Village Calapur by Goa University. Earlier, the Goa University commenced the work of construction of compound wall and building in its premises, which was brought to the notice of the North Goa PDA. The North Goa PDA, vide No. NGPDA/111/Gen/Vol.V/1993/14, dated 04/12/2014, issued stop work order, against which the Goa University filed an appeal before the Town &Country Planning Board. The matter was discussed in the 152nd meeting of the TCP Board held on 30/04/2015 under item No. 11 and the Board decided as under:

"The Member Secretary explained that appeal under Section 52 of TCP Act has been filed by Goa University through its Registrar against Order/stop work notice issued by North Goa PDA vide No. NGPDA/111/Gen/Vol. V/1993/14 dated 4/12/2014 as per which it is directed to remove barbed wire fencing erected on sub-division road abutting to finally approved sub-division layout at Survey No. 206/10 and to stop work of the building being carried out at land under Survey No. 216/1 of Taleigao village.

The appellant submitted that North Goa PDA has not served any show cause notice to appellant with reference to construction of building under progress. It was further submitted that Goa University has already filed an application for regularisation of building situated at Survey No. 216/1. It was also stated that appellant being an institution funded by Government of Goa shall abide by all rules & regulations and accordingly an application for seeking development permission for the project has already been submitted before North Goa PDA on 12/12/2014.

The respondent Member Secretary submitted that the Goa University has not taken development permission for construction under reference also for remaining constructions already completed. He also stated that as per Taleigao ODP a 30.00 mts. road is proposed towards northern boundary of the University campus and same is required to be maintained by the Goa University while undertaking any development in the land. He further submitted that the existing road has been blocked.

The TCP Board after deliberation decided that a sub committee comprising of Shri. Nilesh Cabral, Hon. MLA Shri. Sandeep H. Falari, Architect and Chief Town Planner, members of the Board shall inspect the site and submit report before the Board. Meanwhile the North Goa PDA may decide on the application submitted by Goa University for regularisation under Section 44 of TCP Act. The Board directed the Member Secretary to place matter before the Board once sub-committee submits report after site inspection".

Subsequently, the appeal was discussed in the 152nd meeting of the Town & Country Planning Board held on 17/08/2015 under item No. 6 and the Board decided as under.

The Member Secretary submitted that appeal under Section 52 of TCP Act has been filed by Goa University through its Registrar against Order/stop work notice issued by North Goa PDA vide No. NGPDA/111/Gen/Vol. V/1993/14 dated 4/12/2014.

The appeal was taken up by the Board in 152nd meeting and it was decided to constitute a Sub-Committee comprising of Shri. Nilesh Cabral, Member, Shri. Sandeep H. Falari, Member and the Chief Town Planner, and it was also decided that Sub-Committee shall inspect the site and submit report before the Board.

The Member Secretary stated that Sub-Committee has submitted the report and the same was placed before the Board. The brief findings of Sub-Committee are given below:

1. *The Sub-Committee is open for suggestions of University for re-alignment of 30.00 mts. road along existing road of 10.00 mts. right of way abutting faculty building on northern side.*
2. *There will be two bottlenecks along stretch of said road i.e. near overhead water tank and building block under construction where maximum space of only 11.5 mts. and 13.5 mts. is available.*
3. *The proposal of University for re-aligning of road and reducing right of way could only be decided at the time of revision to ODP and remedy cannot be granted on an appeal.*
4. *The Committee is of the opinion that University shall open access by removing portion of compound/fencing blocking access to adjoining lands.*

The report of the Sub-Committee is taken as part of the minutes. ***Annexure-A***

The representative of Goa University has requested the Board to reduce right of way of said road from 30.00 mts. to 12.00 mts. since space of around 12.00 mts. is available from building block under construction. He also submitted that they are ready to remove portion of compound as per report of Sub-Committee. He also requested to consider the fact that, it is an Institutional building for academic purpose and is already at copmpletion stage.

The TCP after deliberation passed following order:

O R D E R

The Board after hearing both the parties and after deliberation took note of the fact that it is a building of the University built for academic purposes to house a faculty block. It is also noted that the building is at completion stage. The Board decided to allow the appeal with the following directions:

(a) The University shall remove all blockages put up by them in the form of compounds/barbed wire fencing along their boundary, which are blocking access to the neighbouring properties.

(b) They shall submit the compliance to the North Goa PDA within 30 days from the date of this order.

(c) The North Goa PDA shall keep the stop work notice dated 4/12/2014 in abeyance and see the possibility of re-aligning the proposed 30.00 mts. ODP road and reduction of right of way to 15.00 mts. at the time of reviewing/revision of the ODP, which is currently in progress.

(d) The University shall take development permission/technical clearance, as the case may be, for any development in the University complex as per the provisions of the Goa Land Development and Building Construction Regulations, 2010, including regularization of any buildings already.

The decision of the Board was communicated to the Goa University vide Order dated 27/10/2015.

Against the Order of the Board, the Goa University filed a Writ Petition No. 681 of 2017 before the Hon'ble High Court of Bombay at Goa and Hon'ble High Court vide Order dated 18/09/2017, was pleased to grant an interim injunction in terms of prayer clause (b), which reads as follows:

"(b) For stay of the consideration of the representation of the Respondent No. 4 by the Res. No. 1-7 so as to acquire part of the acquired land in possession of the Goa University surveyed under No. 126, 135, 132, 130 and 142 of Calapur Village and further restrain the Respondent No. 1-7 agents, servants from taking any steps pursuant to or in furtherance of the representation filed by the Respondent No. 8 or proceeding to acquire the property surveyed under 126, 135, 132, 130and 142 of Calapur village in any manner whatsoever".

Meanwhile, the TCP Department received a representation dated 29/07/2016 from Dr. Suresh B. Shetye regarding closing of access to the land bearing Sy. No. 193, 197 and 198 of Village Calapur by Goa University compound wall. It is mentioned in the representation by Sr. S. B. Shetye that he is the owner of the land bearing Sy. No. 193, 197 and 198 of Village Calapur. This University land is adjacent to East Boundary of the Goa University land. Upon visit to his property in the month of September 2015, he found that the University has erected a compound wall as a result of which, the access to his property is blocked. Since the time he purchased the land in 1981, University road was being used as a vehicular access to his property. The Original title holders of property were also using the same access earlier. Hence he filed a representation to the TCP Department. Subsequently, he sent reminders on 14/06/2018 and 02/072018. Then the matter was discussed in the 163rd (Adj.) meeting of the TCP Board held on 15/10/2018, under item No. 15 and the Board decided as under:

The Member Secretary TCP Board informed members that representation is received from Dr. Suresh B. Shetye regarding closing of access to the land bearing Sy. No. 193, 197 and 198 of village Calapur, Tiswadi, which belongs to him, by erection of a compound wall by Government. The Member Secretary further brought to the notice of the members that earlier the Goa University had filed appeal v/s North Goa Planning and Development Authority's stop work order in the similar matter of blocking of access and the TCP Board in its 152nd Board meeting had decided to allow the appeal with certain directions and had asked Registrar of Goa university to remove all blockages put up by them in the form of Compounds/barbed wire fencing along their boundary which were blocking access to neighboring properties, and leaving them land locked.

The Board after deliberate discussion decided to once again inform Registrar Goa University to remove all the blockages and clear the access roads of the neighboring properties, by citing the provisions of Goa Land Development Building and Construction Regulations 4.1(i).

The decision of the Board was communicated to Goa University and copy to Dr. Suresh B. Shetye vide letter No. 36/1/TCP/314/2018/2637 dated28/12/2018.

Against this decision of the Board, the Goa University filed a Writ Petition No. 317 of 2019 before Hon'ble High Court of Bombay at Goa and the Hon'ble High Court of Bombay at Goa, vide oral judgment dated 30/07/2019 was pleased to dispose of the Writ Petition by quashing and setting aside order dated 15/10/2018 and 12/11/2018 and directed the TCP Board to give hearing to both, petitioner-University, as well as Res. No. 3 and to dispose of the representations made by Res. No. 3 within 3 months from the date of the petitioner-University filing response to the representations made by Res. No. 3.

Accordingly, the response of the University is received by TCP Department on 26/08/2019, citing the following points:

1. The TCP Board has got limited jurisdiction as provided in the TCP Act. Section 4 to 8 deal with the constitution of the TCP Board, its functions and powers. These sections do not empower the Board to consider the representation made by Dr.Shetye for providing an access through the University land to Dr.Shetye.

2. The Regulation 4.11.d of the Goa Land Development and Building Construction Regulations, 2010 is unconstitutional, ultra vires, illegal; and void and in Writ Petition No. 681/2017, Hon'ble High Court of Bombay at Goa has issued a rule by which Chief and Dy. Town Planner have been restrained from considering the representation of Res. No. 8 to the said petition under Regulation 4.11.d.

3. The Order dated 27/10/2015 was passed in an appeal filed by the Goa University against stop work order dated 04/12/2014, the North Goa PDA had taken a view that finally approved sub-division road/proposed 30 mts. ODP road is blocked and further that the work of the building of RCC framework and further that the work of the building of RCC framework was going on and petitioners were directed to remove the barbed wire fencing along their boundary which are blocking access to neighbouring properties.

4. The Goa University removed the blockages at two points i.e. one on the Northern side and one on the Southern side, as those were the points

which were inspected by the Sub-committee. The University submitted their compliance report to the Board but has not received any reply. No intimation was received by the University at any point of time from the Board that the University so required to remove the portion of the compound wall everywhere so as to give access to each and every land owner. Such a direction would never have been given and the TCP Board could not have constituted itself as an authority to provide access to one and all when none exists and it is for the person concerned to take appropriate proceeding in the court of law. The TCP Board has no jurisdiction to give such direction to Goa University.

5. The property of Dr.Shetye is on the eastern side of the University whereas the property which was inspected by the Sub-Committee was at one point on the northwest side and one point on the southern side.

During the hearing, the respondent were present however the representative of the University informed the Board that the Advocate appearing for the University could not remain present for the hearing due to his prior engagement and hence requested for adjournment of the matter.

The Board considered the request and accordingly had adjourned the matter.

The matter was discussed in the 167th meeting of TCP Board held on 08/11/2019 and the Board decided as under:

"The Board members inquired with Shri Suresh Shetye as whether the said road has been incorporated in the survey plan, to which Shri Suresh Shetye requested for time to file reply. Accordingly, the matter was adjourned for reply from Shri Suresh Shetye with regard to the survey plan showing said road as well as the existing compound wall on the site or to produce any such documents to substantiate his claim as contested".

The matter was heard in the 167th (Adj.) meeting of TCp Board held on 23/12/2019 and the Board decided as under:

"*Member Secretary however brought to the notice of the Board that sufficient notice period was given, however it was the defence of the Advocate*

appearing on behalf of Goa University that the Goa University intimated them about the meeting at a much later date.

Shri Suresh Shetye however raised his concern stating that the delay in taking decision and continuous adjournment of the matter is causing him harassment. The Board considering the facts placed before it decided that last and final opportunity be granted to both the parties to give their final say in the matter in the next meeting of the Board.

The matter therefore stands adjourned for further hearing in the next meeting".

The matter is placed before the Board for further deliberation.

Item No. 4: Appeal under section 52 of the TCP Act, 1974 filed by Engg. Sheldon S. Martins against Greater Panaji Planning & Development Authority (File No. TP/B/APL/184/2019).

The matter is regarding proposed building blocks A, B, C, D, E, F, G &H, the compound wall and gate in the property bearing Sy. No. 57/3-D, Taleigao, Goa.

The North Goa Planning and Development Authority granted Development permission for the same vide Order No. NGPDA/1231/2485/2010, dated 11/01/2010. The Village Panchayat Taleigao issued construction License No. VP/TLG/Const. LIC/26/2010-2011/1031, dated 28/06/2010. The construction began in January 2011 and by May 2011, the construction of compound wall and gates was completed.

The property is affected by a 10 m ODP road and appellants father had requested the TCP Department in September 2011 to delete the said ODP road as there were other roads on the site passing through the property which however were not reflected in the ODP and these roads provided access to neighboring properties. The Chief Town Planner, vide letter dated 20/09/2011 sought comments from the North Goa PDA. The North Goa PDA submitted report to Chief Town Planner vide ref. No. NGPDA/1231/2115/2011 dated 10/11/2011, in which North Goa PDA gave no objection for deletion of this proposed 10 mts. wide ODP road, citing various reasons.

In August 2011, the appellants father applied to NGPDA for revision of the earlier approved plans of the proposed complex in the said property. The NGPDA requested to show the proposed 10 mts. wide ODP road on the site plan, as at that time the said ODP road was not deleted. The appellant's father agreed to show the said road on the proposed site plan and thereafter vide ref. No. NGPDA/1231/1898/12 dated 17/10/2012, the NGPDA granted Development permission to the appellants father for the revision of proposed group Housing Scheme for building blocks A, B, C, D, E, F, G & H in the said property. Thereafter the Village Panchayat Taleigao issued construction License No. VP/TLG/Const. Lic/58/2012-2013/2464 dated 22/12/2012.

Vide public notice bearing ref. No. NGPDA/Taleigao/ODP/41/1092/15, dated 16/06/2015 in the local newspapers, the NGPDA has informed the public about ODP of Taliegao and invited corrections in it. In response to the same, the appellant filed the objectionsto the said ODP requesting "deletion of portion of 10 mts. proposed ODP road". The appellant brought to the attention of the North Goa PDA, existing roads in and near his property which were not marked in the ODP. On 04/09/2018, the Greater Panaji PDA published a public Notice bearing Ref. No. GPPDA/PLUM&R/708/2018, dated 03/09/2018 informing the public that the present Land Use Map and Register of Taleigao 2018 has been adopted and the same can be inspected at NGPDA/GPPDA office at Mala, Panaji, Village Panchayat of Taleigao and Corporation of City of Panaji. When the appellant inspected the said Present Land Use Map of Taleigao Area 2018, it was observed that all the errors pertaining to existing roads passing through his property, which were earlier erroneously not shown in the ODP, were now shown in the Present Land Use Map of Taleigao Area, 2018. Also, the portion of proposed road passing through his property, is also clearly shown as not existing. Subsequently, the draft ODP of Taeigao Planning Area 2021 was prepared and the same was notified and kept open on 15/11/2018 for public ODP of Taleigao -2028. It was observed by the appellant that section of propose 10 mts. wide ODP road passing through his property, was still shown in the Draft ODP as an existing 10 mts. wide road.

Subsequently, vide ref. No. GPPDA/1231/896/2018, dated 16/11/2018, the Respondent GPPDA issued Show Cause Notice to the appellant to remove gates erected and restoration of ground to its original position within 15 days. The appellant replied to the Respondent vide letter dated 27/12/2018. The appellant filed his objection to the draft ODP 2028 of Taleigao to the Respondent vide letter dated 11/01/2019 requesting deletion of said ODP road through his property. On 15/01/2019, the appellant informed the Respondent that he has filed objections on the draft ODP 2018 and requested not to take any immediate follow up decision on the notice dated 16/11/2018 until the matter regarding omissions/mistakes in Taleigao ODP are rectified. The homeowners of 'Martins Palm Fringe' complex through which the proposed road passes also jointly filed their objections to the draft ODP-2028 of Taleigao vide letters dated 11/01/2019 and 21/01/2019. The appellant received an intimation from the Respondent vide Ref. No. GPPDA/Taleigao/ODP-2028/1421/19 dated 18/01/2019 regarding site inspection on 22/01/2019 with reference to the Appellants objections and accordingly the site inspection was conducted. The appellant also received an intimation from the Respondent vide Ref. No. GPPDA/ODP-TPA/1477/2019 dated 18/01/2019 inviting the appellant for hearing on 25/01/2019 with reference to the appellants objections to the Draft ODP-2028. The appellant accordingly attended the hearing on 25/01/2019 and presented his case. News articles in various local dailies on 03/02/2019 announced that on 01/02/2019, the Government approved the ODP 2028 of Taleigao. On 06/02/2019, the home owners of 'Martins Palm Fringe' complex wrote to the Respondent informing that the ODP of Taleigao was finalized without hearing them. On 18/02/2018, the Taleigao ODP was published and kept open for public view. In the said ODP, the said 10 mts. wide road passing though the appellants property, was shown as an existing 10 mts. wide road.

On 18/06/2019, the appellant received final notice bearing Ref. No. GPPDA/1231/197/2019, dated 17/06/2019, directing him to "remove the gates erected on the land reserved for proposed ODP road of 10.00 mts. within 30 days from the receipt of this notice".

The appellant submits that the decision of the Respondent to issue final Notice under section 52 of the Town and Country Planning Act, 1974 was taken at the 09th Authority meeting held on 10/01/2019, which is during the period when the draft ODP 2028 of Taleigao was open for public objections. The appellant prays that the final notice dated 17/06/2019 be quashed and set aside on the following grounds:

1) It is beyond the scope of section 52 of the TCP Act, 1974 and therefore bad in law. Section 52 of the TCP Act, 1974 is for removal of unauthorized development, not otherwise. The appellant has all the permissions, licenses and plans for compound wall and gates duly approved from the concerned authorities.

2) The Show Cause Notice dated 16/11/2018 and Final Notice dated 17/06/2019 are bad because under Section 52 of the Town & Country Planning Act, 1974, the PDA has to take action within 4 years of any unauthorized development. In the present case, upon obtaining construction license from the Village Panchayat of Taleigao on 28/06/2010, the construction of compound wall and gates was completed in May 2011 and as such the compound wall has been in existence from May 2011 to the knowledge of the authorities. The Show Cause Notice dated 16/11/2018 and Final Notice dated 17/06/2019 has been issued after a period of 7 years of the existence of the said approved compound wall and gates.

The Department is in receipt of a complaint by email dated 14/09/2019 from Shri Gaurav Bakshi against alleged illegal construction on a public road passing through Martins Palm Fringe, Taleigao enclosing various documents after perusal of which the following is stated:

1) As per the report of joint site inspection held on 21/06/2019 the following major deviations are observed.
   a) Erection of two gates towards eastern and western sides on the land proposed for 10 mts. Wide ODP road.
   b) Illegal construction of security room of approx.. 9.00 m2 without obtaining prior approval.

c) Illegal construction of pump room of approx. 8.00 m2 without obtaining prior approval.
d) Electrical Transformer has been extended towards the garbage disposal area and a gate has been provided.
e) Garbage disposal area shown on site plan has been shifted due to electrical transformer.
f) A partition wall and toilet block is constructed in building 'A' on ground level within the stilt area.
g) Access shown to building block 'H' on northern side of the property is found blocked by compound wall instead of gate.

2) The Village Panchayat Taleigao, vide ref. No. VP/TLG/Sus-Ord/2017-18/2791, dated 11/12/2017, has suspended the construction license bearing No. VP/TLG/Const/Lic/48/15-16/2342 dated 18/12/2015, pursuant to Order dated 13/08/2013 by Hon'ble High Court of Bombay at Goa in SuoMotu Writ Petition No. 02 of 2007 as per which it was directed not to issue construction license to multi-dwelling projects of 5 residential units and above until the Goa State Pollution Control Board is satisfied that the plastic waste is collected weekly from all wards of the Village and loaded properly for onward disposal through the plastic waste collector.
3) The Village Panchayat Taleigao, vide ref. No. VP/TLG/Sus-Ord/2017-18/2775, dated 11/12/2017, has suspended the occupancy certificate bearing No. VP/TLG/Occup.Cert/12/16-17/580, dated 31/05/2016, pursuant to above mentioned order by Hon'ble High Court of Bombay at Goa.
4) It is mentioned in the letter addressed to Director of Panchayats by Shri Gaurav Bakshi, which is enclosed in the complaint dated 14/09/2019, that the Director of Panchayat has passed an order to revoke the suspension of occupancy certificate, but copy oforder by Director of Panchayat is not enclosed.
5) The Goa State Pollution Control Board, vide ref. No. 1/25/19-PCB/19/1632, dated 30/04/2019, has directed the appellant to deposit Rs. 35,000/- with the Board, as penalty for damage to the environment

and for operating without consent of the Board. The Board has also issued a Show Cause Notice on 30/04/2019 as to why action should not be initiated for operating without consent of the Board.

6) The letter by Shri Gaurav Bakshi to the Director of Panchayat further states the following:
   a) Despite suspension of construction license, the builder continued the construction, which is incomplete till date.
   b) The SDM, Panaji has issued Stop Order u/s 133 of CRPC.
   c) VP Taleigao rejected house tax transfer due to following:
      (i) Lack of inventory showing ownership.
      (ii) Illegal sale of common terrace.
      (iii) Public Road blockage.
   d) F.I.R. is registered on the builder on 05/07/2019 u/s 420 & 406. Also, the complainant has listed many other actions taken by various agencies on the builder.

In the 167th meeting of TCP Board held on 08/11/2019 and it was decided that it shall hear only the appeal filed before it under the relevant provision of TCP Act and that the Department shall look into any other issues addressed to it. The respondent PDA however informed that they have not received any copy of appeal memo. A copy of appeal memo was therefore made available to them during the hearing itself. The respondent PDA sought time to file their reply which was agreed upon and accordingly the matter was adjourned".

The matter was heard in the 167th (Adj.) meeting of TCp Board held on 23/12/2019 and the Board decided as under:

"*Notices were accordingly issued to both the parties to remain present for the meeting under reference. The Advocate of the appellant during the hearing sought for the time stating that they require additional time to gather further details in the matter in support of their petition and the same was not objected by the respondent PDA and hence the request of the appellant was considered. The Board therefore decided to hear the matter in the next meeting.*

Member Secretary was directed to issue the notices to both the parties accordingly".

The matter is placed before the Board for further deliberation.

Item No. 5: Appeal under section 52(2)(b) of the TCP Act, 1974 filed by Shri FaridFatehali Habib Veljee against Greater Panaji Planning & Development Authority (File No. TP/B/APL/185/19).

The appellant is the owner of a showroom, bearing No. 1, under Sy. No. 82/01, at Taleigao, Goa which was purchased by him by a registered Deed of Sale dated 12/05/2014, which is admeasuring an area of 125 sq. mts. situated on the ground floor of the building known as "FELICITY APARTMENT"

On 21/02/2017, the Respondent issued a Show Cause Notice vide Ref. No. NGPDA/1374/2965/17, alleging that upon site inspection on 23/01/2015, it was observed that the appellant has carried out illegal construction in the property bearing Sy. No. 82/1, Taleigao, Goa. On 02/03/2017, the appellant sought time of 10 days to file a detailed reply to the Show Cause Notice dated 21/02/2017. On 11/06/2019, the Respondent issued notice for personal hearing on 14/06/2019 at 4.00 p.m. at the office of the Respondent Authority, which was conducted. During the hearing, the Respondent directed all the parties present, to file such further documents if they so desired in support of their reply. Accordingly, the appellant filed a compilation of documents along with a memo dated 18/06/2019. During the course of hearing, the Member Secretary of the Respondent Authority directed the officials of the Respondent to carry out inspection of the premises and make a report. The appellant applied for copy of said report under RTI Act, 2005, but till date it has not been made available. Then on 21/06/2019 vide ref. No. GPPDA/270/TAL/199/2019, the Respondent issued Order/Final Notice under section 52 of TCP Act, 1974 to demolish/remove the alleged illegal development within 30 days of receipt of notice failing which the Respondent shall cause the demolition/removal of the same and the cost of the said work would be recovered from the Appellant. The appellant was also given notice that he would have to pay penalties under the Act for having carried out the alleged illegal construction.

The appellant has prayed for quashing and setting aside the Final Notice dated 21/06/2019, mainly on the following grounds apart from other grounds:

1) The impugned order is bad in law and contrary to material placed on record.
2) The impugned order is passed without giving valid reasons for the same.
3) The Respondent failed to consider the reply and compilation of documents filed before them by the appellant.
4) The impugned order is illegal as it fastens the liability of the illegal development on the appellant despite the documents. i.e. Deed of Sale dated 12/05/2014 and Deed of Rectification dated 05/12/2014, clearly mentions that, the Appellant was entitled to exclusively “use the area within compound wall” around the showroom”.

The Final Notice bearing Ref. no. GPPDA/270/TAL/199/2019, dated 21/06/2019, issued by Greater Panaji PDA mentions the following alleged illegal development.

1) Unauthorized construction of compound wall of length 4.00 mts. On South side and 5.50 mts. On North side in the building setbacks area at the height of 1.50 mts. and on top of the said compound wall erected the asbestos sheets with the help of M. S. Steel Frame and covered with mesh.
2) Erection of M. S. structural shed along with periphery of showroom/commercial shop at the height of 5.00 mts. i.e. at the level of First Floor Slab and in the set back area which admeasuring 15.00 x 5.00 = 75.00 sq. mts. in Northern set back of building.
3) Erection of glass sheet canopy to front set back of building, abutting the show room façade at the level of 5.50 mts. from the ground level.
4) Construction of platform of width 1.00 x length 2.00 mts. with one side ramp and other side step.

Thus, the access form the setback area facing 15.00 mts. road is blocked affecting the ingress/egress and circulation space of the building.

The matter was discussed in the 167th meeting of TCP Board held on 08/11/2019. The respondent PDA however informed that they have not received any copy of appeal memo. A copy of appeal memo was therefore made available to them during the hearing itself. The respondent PDA sought time to file their reply which was agreed upon and accordingly the matter was adjourned".

The matter was heard in the 167th (Adj.) meeting of TCP Board held on 23/12/2019 and the Board decided as under:

"*Notices were accordingly issued to both the parties to remain present for the meeting under reference. The Advocate of the appellant during the hearing sought for the time stating that they require additional time to gather further details in the matter in support of their petition and the same was not objected by the respondent PDA and hence the request of the appellant was considered. The Board therefore decided to hear the matter in the next meeting.*

Member Secretary was directed to issue the notices to both the parties accordingly".

The matter is placed before the Board for further deliberation.

Item No. 6: Appeal under section 45 of the TCP Act, 1974 filed by Shri Pramod Shirodkar against South Goa Planning & Development Authority (File No. TP/B/APL/186/19).

The matter is regarding refusal by the Respondent to grant NOC for proposed amalgamation of Flat No. G-2 and G-3 in building "Shanterivan", vide reference No. SGPDA/P/1672/08/19-20 dated 10/04/2019, on the ground that requisite NOC from society is required.

The appellant is owner of the premises bearing flat No. 1(G-2 and G-3), "Shanterivan Co-operative Housing Society Ltd.", Varkhand Ponda Goa admeasuring total 75.00 sq. mts., purchased by the appellant and his daughter Dr. Leena Shirodkar from the vendors M/s Mangalkruti Realtors by an agreement dated 12/06/1998.

The Occupancy Certificate in respect of the flats was granted on 11/11/1999 by Ponda Municipal Council which shows the flats separately as G-2 and G-3. The "Shanterivan Co-operative Housing Society Ltd." was registered on 06/09/2001 which shows the said flat as Single flat and the appellant was allotted 1 share certificate, corresponding to the said single flat.

Subsequently, a registered conveyance deed dated 05/10/2007 was executed which shows the said flat as single flat.

In the year 2015, the society Chairman wrote to appellant regarding non payment of dues, illegal transfer of flat to daughter etc. The matter was being complied. For that purpose on 09/07/2018 the appellant made an application respondent. The said application has been rejected by the Respondent on the ground that NOC from the society is required.

Hence, the Board may decide.

Item No. 7: Appeal under section 52(2)(B) of the TCP Act, 1974 filed by Shri Lyndon D'Silva and Maria Colaco D'Silvaagainst South Goa Planning & Development Authority (File No. TP/B/APL/187/19).

The matter is against final notice dated 06/12/2019 bearing No. SGPDA/P/Illegal/1289/19-20 directed the appellant to demolish toilet in open terrace and zinc sheets consuming additional FAR.

The appellant number to Smt. Maria Colaco D'Silva owns the duplex flat on 4th floor bearing H.No. FF9 purchased about 5 years back. There was need to make the entire flat in a livable condition as it was closed for 20 years. The appellant sought permission from Respondent and Margao Municipal Council. The said duplex flat had a covered terrace which had broken finolex sheets, hence it was replaced by new sheets and the RCC stair case for access to upper floor was replaced by fabricated stair case. Upon complaint dated 09/03/2019, the Margao Municipal Council issued stop work order on 02/04/2019, which was revoked on 06/05/2019 and as per the directives of Margao Municipal Council, the exposed roof that was removed earlier was put again and other minor works were done.

The Margao Municipal Council directed to take permission from Respondent. On 01/08/2019 Respondent issued show cause notice. It was replied by the Appellant on 12/11/2019, followed by second show cause notice on 22/11/2019. It was replied on 02/12/2019. Now the respondent has issued final demolition order.

Hence, the Board may decide.

Item No. 8: Regarding request from Dattaran T. Nayak to review decision regarding earlier representation dated 31/12/2018 of Ramnath Devasthan, Ponda Taluka.

The matter was discussed in the 165th meeting of TCP Board held on 01/03/2019 and heard Shri Dattaram Nayak in the matter of grant of Technical Clearance Order to Ramnath Devasthan at Bandora to construct Purush Sankul and Archak Sankool and the same was discussed in the earlier meeting of the Board to hear the parties. Accordingly, notice were issued for both the parties to remain present for the hearing.

Shri. Dattaram Nayak and members of the Devasthan Committee Architect Shri Ajit Hegde, Shri Pravas Naik, President of the Devasthan and Shri Rajendra Kosambe, Attorney of the Devasthan remained present for the hearing.

Shri. Dattaram Nayak stated that he had made several representations to Ponda Taluka Office citing irregularities carried out by Ramnath Devasthan. The main contention of Shri Dattaram Nayak was as regards to encroachment over the traditional drain by means of construction of approach steps, which he claimed was belonging to Water Resource Department. He stated that although the approved plans showed only about 5 steps, the Devasthan has constructed about 32 steps. He further informed the Board that a notice dtd. 8/3/2017 was issued to Ramnath Devasthan by Water Resource Department regarding covering of the drain and construction of steps over it and another notice dtd. 30/1/2018 was issued to Ramnath Devasthan seeking explanation regarding the same issues.

The representative of the Devasthan submitted that the nallah as claimed by Shri. Dattaram Nayak is not a Government nallah and whereas it is just a small drain constructed by Devasthan itself within its property to facilitate draining of rainwater. They also placed before the Board the copy of survey plan of the property under Sy.No. 42 which did not reflect any such public drain.

A letter dtd. 9/2/2018 of PWD was also placed before the Board by the representative of the Devasthan, pertaining to reconstruction of RCC culvert which they had received from office of the Executive Engineer, Div. XVIII (Roads), PWD, which stated that on inspection carried out by the Department, it was observed that the reconstruction of culvert is falling within the campus of Shri Ramnath Devasthan and as such sanction from their Department was not necessary. The letter also allowed the Devasthan to get the same designed and executed under supervision of any Structural Engineer.

The representatives also brought to the notice of the members that the Appellant has also filed a suit against Devasthan citing several other issues and by making several allegations against the Devasthan and the Hon'ble High Court in Writ Petition No. 212 of 2019 had dismissed the petition filed by Appellant for being devoid of merits. The representative also informed the Board that the petitioner is in the habit of making false allegations against the Devasthan and its members and the complaints filed by him are frivolous and baseless.

After going through all records placed before it and arguments advanced by both the parties, the Board concluded that there is no merit in the representation dtd. 31/12/2018 made before it by Shri. Dattaram Nayak and hence deserves no further action, as requested therein against the Devasthan or against the TCP officials.

The Board accordingly discharged the representation as made by Shri Dattaram Nayak."

Shri Dattaram Nayak has now again made a representation dtd. 28/11/2019 stating that he would like to add few more documents in his new representation and has thus requested for review of the decision earlier taken regarding his earlier representation dtd. 31/12/2018.

The Board may decide.

Item No. 9: Regarding increase of FAR from 80 to 100 to take up PMAY Scheme at Xeldem Quepem in Survey No. 121/1 to 8.

The matter is regarding letter No. 2/22/2019/HSG/248, dated 27/09/2019 by Addl. Secretary (Housing) regarding increasing of FAR from 80% to 100 % to take up PMAY scheme at Xeldem, Quepem in Survey No. 123/1 to 8.

It is stated in the letter dated 19/07/2019 that, Goa Housing Board is being appointed as the implementing agency for affordable housing in Partnership (AHP) under PMAY vertical of the Ministry of Housing and Urban Affairs (MHUA). The Government has approved 14 statutory towns of Goa to avail the benefit under the PMAY mission of which Goa Housing Board has land at Xeldem, Quepem Taluka admeasuring an area of 11459 sq.mts. To make the project feasible, composite scheme having 64 units of EWS/LIG Dwellings and 112 nos. of double bedroom flats using an FAR of 100 has been designed to cross subsidies on the cost of the EWS/LIG units which would be eligible as per the guidelines of PMAY for central assistance.

The Central Government in Pradhan Mantri Awas Yojana Scheme (PMAY) guidelines 2015 at para 11, has provided some mandatory conditions which include, obviating Non Agricultural permission if land falls in residential zone earmarked in Master Plan, single window clearance, providing additional FAR etc. Hence, the Goa Housing Board has requested for 100 FAR to make the project feasible to take up PMAY Scheme.

As per the Goa Land Development and Building Construction Regulations, 2010, the maximum permissible FAR of 100 is applicable to Settlement zone S1 only, which also has a maximum permissible height of building as 15.00 mts.

Whereas, the plot under reference of Housing Board is located at Village Xeldem, which is classified as VP2 category village to which maximum FAR assigned is 80 with maximum permissible height of building as 11.5 mts.

Since, the request of Goa Housing Board is for grant of 100 FAR, the Board may decide.

Item No. 10: Decision on proposal considered by 29th meeting of the 16-A Committee, constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/ Schemes/ Development work by the Government) Rules -2008.

The Member Secretary submitted that proposals as given in Table placed at Annexure 'A' have been considered by the Committee constituted under sub rule 4 of Rule 3 of The Goa Town & Country Planning (Public Projects/ Schemes/ Development work by the Government) Rules -2008 in its 29th meeting held on 15/01/2020.

The same proposals are placed before the Town & Country Planning Board for consideration as per Annexure 'A'.

Item No.11: Applications under Section 16B of TCP Act as discussed in 167th meeting held on 08/11/2019.

The Member Secretary informed members that in 167th meeting of the TCP Board held on 08/11/2019, applications as received under Section 16B of the TCP Act were placed before the Board for its consideration as required under Section 12 of the TCP Act and it was decided only to process the same further and to obtain necessary reports from Agriculture and Forest Department, so as to enable the Department to decide further on these applications.

The Member Secretary further informed that the Board had not decided specifically regarding consideration of these request for change of zone as applied by the applicants and hence it is required to decide on the same.

The proposal to be taken up accordingly under this item are as per Annexure ‘B’.

Item No. 12: Applications u/s 16B of TCP Act as discussed in 167th (Adj.) meeting held on 23/12/2019.

It is informed that in 167th (Adj.) meeting of the Board held on 23/12/2019 applications as received under Section 16B of TCP Act were placed before the Board and were considered for further processing under the provisions of TCP Act for the purpose of obtaining report from Agriculture Department and Forest Department.

The decisions taken were however not notified as required u/s 13(1) of TCP Act. Since it is made clear during the hearing in Hon’ble High Court on 09/01/2020 in the matter of Writ Petition No. 44 of 2018 tagged with 16 of 2019 that the applications received u/s 16B can be processed further as required u/s 12 to 13 of the TCP Act, the same applications are now placed again before the Board for its consideration u/s 12 of the TCP Act. The same are as per Annexure-C.

Item No.13: Applications received under Section 16B of TCP Act for consideration under Section 12 of the TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The proposals as received under Section 16B are hereby placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act,as Annexure ‘D’.

Item No. 14: Any other item with permission of the Chair.